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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/288,685

Applicant(s)

FREDERICK, DAVID T. 

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

<b>Notification of Non-Compliance With 37 CFR 1.192(c)</b>	<b>Application No.</b> 09/288,685	<b>Applicant(s)</b> FREDERICK, DAVID T.	
	<b>Examiner</b> Jeffrey A. Shapiro	<b>Art Unit</b> 3653	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 March 2002 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

Applicant has not addressed the prior office action, paper #13, dated 3/5/02.

  
 DONALD R. WALSH  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 3600

## DETAILED ACTION

### *Appeal Brief*

1. The appeal brief filed on 3/14/02 is defective because it does not address the rejections of the last office action, paper #13, dated 3/5/02. As such, the last office action is made final. This should clarify that the rejections still in effect are the last office action, paper # 13. The reference to "Appeal brief" is made to the Applicant's appeal brief, and its defectiveness thereof. For clarification, it is also mentioned that this action is a **final office action, not an examiner's answer**, since Applicant did not submit a proper appeal brief. Evidence of the approval of this office action, as was the prior office action, paper #13, is provided below in the form of the signatures of both the Patent Examiner and the Supervisory Patent Examiner, as has been customary in the United States Patent Office. Should there be any confusion, Applicant is encouraged to contact the Examiner at the phone number listed at the end of this as well as the prior actions.

To avoid dismissal of the appeal, appellant must respond within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing of this communication, whichever is longer; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

2. It is also noted that Applicant's 60 page appeal brief with 23 page appendix may also be defective. It is suggested that the Applicant certify brief volume to a maximum

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of 14,000 words or 1300 lines with a moonfaced type. FED. R. APP. P. 32 (7)(B&C);

U.S.C. Appendix. Generally, 30 pages is considered the "safe harbor" in federal courts.

See below.

3. The appellant's 60 page appeal brief with 23 page appendix may be defective for exceeding the principal brief size limit without receiving special leave from the Board to file an oversized "brief." The Federal Rules (of Appellate Procedure) provide a safe harbor limit for principal briefs of 30 pages. FED. R. APP. P. 32 (7)(A); 28 U.S.C. Appendix. Alternately, appellants may certify brief volume to a maximum of 14,000 words or 1300 lines with a monofaced type. FED. R. APP. P. 32 (7)(B & C); 28 U.S.C. Appendix. As a further alternative, the party may obtain special leave from the adjudicator. FED. R. APP. P. 32, Judicial Advisory Committee Annotations on Rule 32.

The Administrative Procedures Act proscribes that unless a statute on point or an agency promulgated rule on point exists, the [Federal] Rules of Evidence and Procedure apply, 5 U.S.C. § 559. The United States Patent and Trademark Office is an administrative agency within the context of the Administrative Procedures Act. *Dickenson vs. Zurko*, 50 USPQ2d 1930, 1933; 527 U.S. 150 (1999). In his majority opinion, Justice Breyer held that § 559 generates uniform procedural standards among the agencies. *Dickenson vs. Zurko* at 1933; *Id.* at 1935.

By way of example, a rule on point expressly superceding § 559 is the express page limit for briefs filed before the Trademark Trial and Appeal Board. 37 CFR § 2.128(b). Statutes superceding § 559 include other portions of the Administrative Procedures Act such as the standard of review expressly proscribed in 5 U.S.C. § 706 wherein the § 706 standard of review superceded implementation of Rule 52(A) as triggered via § 559. *Dickenson vs. Zurko* at 1932. There is no statutory limit within Titles 35 or 5 of the Code or Title 37 of the Rules on brief size before the Board of Patent Appeals and Interferences. As there is no express rule or statute on point limiting brief size, the 30 page safe harbor limit of Rule 32 applies unless a party is granted permission via special leave from the Board upon exercise of the Board's discretionary authority or unless party elects to certify volume as expressed in word count or line count.

When a party generates an oversized brief, he unduly burdens the adjudicator with excessive analysis and obscures the focus of the issues they need analyze and decide, thereby making the task of the adjudicator (in this instance, the Board) more difficult. As such, a party needs obtain permission from the adjudicator when burdening it with such an extra workload. Since applicant failed to obtain leave from the Board of Patent Appeals and Interferences for the filing of an oversized brief, applicant's 123 page brief is defective.

As noted in the included annotated sections, the Judicial Advisory Committee wrote Rule 32(7) with its 14,000 word/1300 line limitations, toward a goal of proximating Rule 32 in word content with the 50 page limit of old Rule 28(G) of which it was replacing. Rule 28(G) was written at a time when briefs were generated on typewriters.

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Since the circuit courts have adopted assorted harsh penalties for exceeding volume content-inclusive of appeal dismissal, attorney sanctions, and non-consideration of the brief content exceeding the page limit-the examiner includes as a courtesy to applicant the article warning that briefs certified with MS Word® may give erroneous word counts if the factory default options are not properly deselected-an action held to be inexcusable attorney misrepresentation.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example, in Claim 1, it is unclear whether the horizontal apertures are located a distance from each other horizontally, with the first aperture disposed vertically above the second aperture, or, for example, the first apertures are elongated in the horizontal direction and the second aperture is elongated in a vertical direction.

This problem appears to be repeated throughout the claims.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-19, 29-36, 40-48 and 53-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Bach.

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Krivec describes the apparatus as follows.

As described in Claims 1, 29-36 and 40-56;

a supporting structure (126) including

a generally vertically extending wall, the wall including

at least two sets of generally horizontally disposed apertures (176, 180 or 236—note that each of these apertures have analog apertures disposed in a horizontal direction from each other, and are situated in a pattern which can be construed to have two sets) therein, wherein each set of apertures includes a first aperture and

a second aperture,

wherein the first aperture is disposed vertically above the second aperture;  
and

a releasable connecting member (202),

wherein the connecting member in an operative position extends substantially between the sets of apertures and in releasable supporting connection with the wall (see figure 15),

wherein the releasable connecting member is *adapted* for supporting items in operative connection therewith,

wherein the releasable connecting member includes

two disposed pairs of projecting portions (214 and 216 or 214 and 220)

corresponding to the sets of apertures, and

wherein each pair of projecting portions includes

a first projection (214) and

a second projection (216), and

wherein in the operative position of the connecting member the first

projection extends in a first aperture (176) and the second projection

extends in

a second aperture (178 or 180), and

wherein in cross section the second projection extends from the

connecting member in generally

a first direction, and

wherein the first projection includes

an inner portion (see figure 21, for example),

wherein the inner portion extends from the connecting member in

generally the first direction, and

wherein the first projection includes an end portion (note that the

projections all necessarily include an end portion),

wherein the end portion extends generally transverse to the first direction

and away from the second projection (see 218 in figure 19 and figure 12,



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for example, which has two end portions extending transversely to a middle portion), and

wherein the connecting member is placed in supporting connection with the wall by extending the end portions of the first projections in the first apertures of the sets and then rotating the connecting member relative to the wall to the operative position (note that it is inherent that in order to attach the connecting member, it must be rotated so that the projections are able to be assembled)

wherein the inner portions extend in the first apertures and the second projections extend in the second apertures.

As described in Claim 2;

the releasible connecting member (202) comprises

a body See figure 19) and

wherein the first projection extends from the body, and

wherein in the operative position of the connecting member the end portion and the body extend on opposed sides of the vertically extending wall (see figure 18).

As described in Claim 3;

an outer wall (80) extending generally parallel to and in operatively fixed connection with the vertically extending wall,

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wherein a space extends between the vertically extending wall and the outer wall and

wherein in the operative position of the connecting member the end portion extends in the space.

(Note it is inherent that a space between the vertical extending wall and another wall or object would necessarily have to be present in order for the invention to work properly by allowing the insertion or removal of said connecting member and associated projections. For example, if such a cabinet was disposed next to the wall or a room such that the vertical extending wall of the cabinet and the room wall were flush, it would not be possible to properly insert said connecting member.)

As described in Claim 4;

wherein a horizontally disposed pair of sets of apertures comprise an arrangement, (note that any number of apertures or sets of apertures may be construed as meeting this limitation) and

wherein the vertically extending wall comprises a plurality of vertically disposed arrangements of apertures, (see figure 23)

wherein the connecting member is positionable to engage any one of the arrangements of apertures in the operative position,

whereby the connecting member is selectively vertically positionable relative to the vertically extending wall;

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As described in Claims 5 and 10, 44-50;

a moveable item supporting member (such as a drawer or shelf)(100 or 230) in operative supporting connection with the connecting member, wherein in the operative position of the connecting member the item supporting member is moveable relative to the wall.

As described in Claim 6;

wherein the item supporting member is moveable relative to the vertically extending wall in a generally horizontal direction; (note that a drawer is inherently movable in a horizontal direction;)

As described in Claims 7;

wherein the vertically extending wall comprises

a first wall (126) with first arrangements of apertures therein, and further comprising:

a second wall (234),

wherein the second wall is generally vertically extending and horizontally disposed from the first wall,

wherein the second wall comprises

a plurality of second arrangements of apertures (236 and 237) therein,

wherein each of the second arrangements generally vertically correspond to one corresponding first arrangement of apertures in the first wall, and

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a first connecting member (200) in operative connection with one of the first arrangements of apertures and

a second connecting member (note that, at the very least, it is inherent that a second drawer slide would be included on the opposing wall) in operative connection with one of the second arrangements of apertures, and

an item supporting member (100) in supporting connection with the first and second connecting members.

As described in Claims 8;

wherein the item supporting member is moveably mounted in supporting connection with the first and second connecting members,

wherein the supporting member is generally moveable horizontally relative to the first and second walls.

As described in Claim 9;

a plurality of first and second connecting members, each connecting member in supporting connection with the first and second walls respectively (note that there is more than one drawer (100)—see figure 1);

a plurality of item supporting members, each item supporting member independently moveably mounted in supporting connection with one first supporting member and

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one second supporting member.

(Again, Note figure 1.)

As described in Claims 11, 51 and 52;

wherein the item supporting member comprises

a shelf

(Note that a drawer and shelf are considered to be art-known equivalents in that they both support items. Further, a drawer could be reasonably construed as a shelf. A shelf is defined in Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> edition, at p. 107, copyright 1998, as "a thin flat, usually long and narrow piece of material fastened horizontally at a distance from the floor to hold objects" or "something resembling a shelf in form or position..." A drawer resembles a shelf in form or function in its static state in that it supports items placed on it.)

As described in Claim 12;

wherein the item supporting members are vertically spaced from one

another by a first vertical distance, and

wherein the first and second arrangements of apertures are spaced from

one another by generally the first vertical distance.

(See discussion previously, as well as figures 1-3 and 22.)

As described in Claim 13;

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wherein the item supporting members are spaced from one another by a first vertical distance, and

wherein the first and second arrangements of apertures are spaced from one another by a second vertical distance,

wherein the second vertical distance is smaller than the first vertical distance;

(Note figure 8, which shows a set of apertures (172 and 174) and a set of apertures (178 and 180) or (176 and 178) which make up sets of apertures and which said sets of apertures are located different vertical distances from each other.)

As described in Claim 14;

wherein at least one first aperture in a set is elongated generally horizontally (see figure 3), and

wherein the first projection which extends in the one aperture in the operative position of the connecting member is elongated in a direction generally parallel to the first direction such that in the operative position of the connecting member the elongated first projection extends into and substantially fills the horizontally elongated first aperture.

(See discussion previously, as well as figures 1-3 and 22.)

As described in Claim 15;

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wherein at least one second aperture (170, 174 or 180) in a set is elongated generally vertically, and

wherein the second projection which extends in the one second aperture in the operative position of the connecting member is elongated in

a direction generally parallel to the first direction such that in the operative position of the connecting member the elongated second projection extends in and substantially fills the vertically elongated aperture.

As described in Claim 16;

wherein the first aperture in each of the sets is elongated generally horizontally and the second aperture in each of the sets is elongated generally vertically, and

wherein the projections in the pairs are configured such that the first projections extend in and substantially fill the first apertures and the second projections extend in and substantially fill the second apertures.

(See discussion previously, as well as figures 1-3 and 22.)

As described in Claim 17;

wherein in each of the sets of apertures the second aperture is disposed horizontally from the first aperture.

(See discussion previously, as well as figures 1-3 and 22.)

As described in Claim 18;

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wherein the second apertures in the sets are spaced further apart horizontally than the first apertures in the sets.

As described in Claim 19;

a plurality of first connecting members in supporting connection with the first wall, and

a plurality of second connecting members in supporting connection with the second wall,

wherein each of the first and second connecting members is configured to be engageable in the operative position with either the first wall or the second wall, and further comprising

a plurality of item supporting members (drawers or shelves 100 or 230),

wherein each item supporting member is in operative supporting connection with

at least one first connecting member and

at least one second connecting member.

(See discussion previously, as well as figures 1-3 and 22.)

As described in Claim

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 37-39 and 20-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipps in view of Bach et al.

Lipps discloses a medical cabinet, having drawers (20), shelves and doors (28), said door having a lock (58) able to be interacted with a user input device (such as a typical key), and a computer system (see figures 4-10) for keeping track of various parameters and controlling input and access to the system. Lipps does not expressly disclose the drawer guide, connecting appendages and associated arrangements of Claims 1-19.

Bach et al discloses a cabinet as described above.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have used the cabinet configuration of Bach et al in the cabinet of Lipps, in order to attach drawer guides in particular modular and adaptable fashion.

The suggestion/motivation for doing so would have been to "provide an interlock apparatus which avoids the disadvantages of the prior assemblies while affording structural and operational advantages." See col. 1, lines 38-40.

Regarding Method Claims 20-28, note that one ordinarily skilled in the art is capable of and would find it necessary to perform the method as described in Claims 20-28, or a functional equivalent thereof. As the apparatus of Lipps and Bach et al, as

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described above, disclose the invention of the Applicant, method Claims 20-28 are also rejected.

### ***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-28 of U.S. Patent No.

5,961,036 in view of Bach et al. Bach et al discloses the device as described above.

The '036 patent discloses a computer system for a medical cabinet having drawers. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '036 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. See suggestions/motivations above.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-20 of U.S. Patent No.

6,073,843 in view of Bach et al. Bach et al discloses the device as described above.

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The '843 patent discloses a computer system for a medical cabinet having drawers. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '843 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. See suggestions/motivations above.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-17 of U.S. Patent No. 5,957,372 in view of Bach et al. Bach et al discloses the device as described above. The '372 patent discloses a computer system for a medical cabinet having drawers. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '372 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. See suggestions/motivations above.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of U.S. Patent No. 5,790,409 in view of Bach et al. Bach et al discloses the device as described above. The '409 patent discloses a computer system for a medical cabinet having drawers. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '409 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. See suggestions/motivations above.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-58 of U.S. Patent No. 6,163,737 in view of Bach et al. Bach et al discloses the device as described above. The '737 patent discloses a computer system for a medical cabinet having storage locations. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '737 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. See suggestions/motivations above.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-13 of U.S. Patent No. 5,404,384 in view of Bach et al. Bach et al discloses the device as described above. The '384 patent discloses a computer system for a medical storage area. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '384 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. The suggestion/motivation would have been to allow for a maximum of modularity and adaptability so as to optimize space in the medical cabinet.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-7 of U.S. Patent No. 5,533,079 in view of Bach et al. Bach et al discloses the device as described above. The '079 patent discloses a computer system for a medical storage area. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '079

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patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. The suggestion/motivation would have been to allow for a maximum of modularity and adaptability so as to optimize space in the medical cabinet.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-20 of U.S. Patent No. 5,971,593 in view of Bach et al. Bach et al discloses the device as described above. The '593 patent discloses a computer system for a medical storage area. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '593 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. The suggestion/motivation would have been to allow for a maximum of modularity and adaptability so as to optimize space in the medical cabinet.

Claims 1-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-27 of U.S. Patent No. 5,993,046 in view of Bach et al. Bach et al discloses the device as described above. The '046 patent discloses a computer system for a medical storage area. It would have been obvious for one of ordinary skill in the art to have altered the apparatus of the '046 patent by employing the features of the device described by Bach et al, as described above, in order to obtain the apparatus as described in Claims 1-56. The suggestion/motivation would have been to allow for a maximum of modularity and adaptability so as to optimize space in the medical cabinet.

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***Conclusion***

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

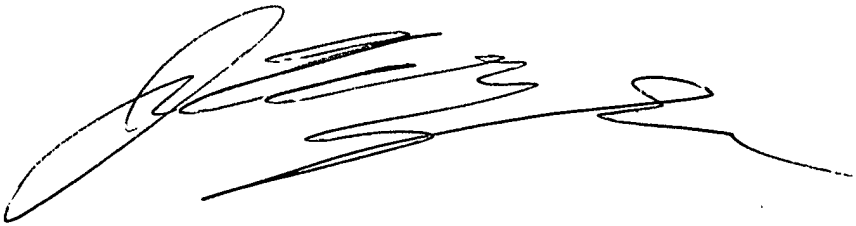
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-2571 for regular communications and (703)308-2571 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Jeffrey A. Shapiro  
Patent Examiner,  
Art Unit 3653



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

July 10, 2002